

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
)
CECELIA N. JOHNSON,) No. 09-37011
) Judge Jack B. Schmetterer
) Chapter 11
Debtor.)

NOTICE OF MOTION

To: Cecelia N. Johnson Forrest L. Ingram
6448 S. Eberhart Forrest L. Ingram, P.C.
Chicago, IL 60637 79 W. Monroe Street, Suite 900
Chicago, IL 60603

William T. Neary, US Trustee
219 S. Dearborn Street
Room 873
Chicago, IL 60604

PLEASE TAKE NOTICE that on November 19, 2009, at 10:00 a.m. I shall appear before the Honorable Jack B. Schmetterer, or any judge sitting in his place and stead, in Courtroom 682, of the Dirksen Federal Building, 219 S. Dearborn Street, Chicago, Illinois, and then and there present Fifth Third Bank's Motion for Relief from Stay, a copy of which is attached hereto.

Diver, Grach, Quade & Masini, LLP
Attorneys for Fifth Third Bank

By: /s/ David L. Hazan
One of its attorneys

David L. Hazan
Diver, Grach, Quade & Masini, LLP
Attorney for Fifth Third Bank
111 N. County Street
Waukegan, IL 60085
(847) 662-8611
Atty. Reg. No. 1163760

PROOF OF SERVICE BY MAIL and ELECTRONICALLY

I, David L. Hazan, an attorney hereby certify that I served the foregoing Notice and Motion to Modify Automatic Stay by mailing a copies to the Debtor at the address specified on the Notice depositing it in the United States Mail Depository at 111 N. County Street, Waukegan, Illinois, at or before 5:00 p.m. on November 6, 2009, with proper postage prepaid, and to the remaining parties electronically on November 6, 2009.

/s/ David L. Hazan _____

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MOTION FOR RELIEF FROM AUTOMATIC STAY

Fifth Third Bank ("Fifth Third"), by its attorney, David L. Hazan of the firm Diver, Grach, Quade & Masini, LLP, requests this Court to annul the automatic stay pursuant to Section 362(d)(1) of the United States Bankruptcy Code, and as grounds therefore, states as follows:

1. On October 5, 2009, the Debtor filed her voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code.
2. On February 12, 2008, Debtor made, executed and delivered to Fifth Third a United States Small Business Administration Note ("Johnson Note") in the original principal amount of \$1,287,000.00. A true and correct copy of the Johnson Note is attached hereto as Exhibit 1.
3. The Johnson Note is secured, in part, by a Mortgage ("Mortgage No. 1") against the property commonly known as 4650-52 N. Sheridan Road, Chicago, Illinois 60640 ("Property"). A true and correct copy of Mortgage No. 1 is attached hereto as Exhibit 2.
4. On February 12, 2008, Debtor and My Ranch, Inc., executed and delivered to Fifth Third a United States Small Business Administration Note ("My Ranch Note") in the original principal amount of \$200,000.00. A true and correct copy of the My Ranch Note is attached hereto as Exhibit 3.
5. The obligations of Debtor and My Ranch, Inc. under the My Ranch Note are secured by a second mortgage ("Mortgage No. 2") against the Property. A true and correct copy of Mortgage No. 2 is attached hereto as Exhibit 4.
6. It is Fifth Third's belief and information that the value of the Property is \$1,345,000.00.
7. As of September 25, 2009, there was due Fifth Third from the Debtor pursuant to the terms of the Johnson Note the sum of \$1,264,450.50 as and for principal, \$25,640.24 as and for interest, and \$3,476.80

as and for late charges, for a total of \$1,293,567.54, with interest continuing to accrue thereon at the rate of \$175.61813 per diem.

8. As of September 25, 2009, there was due Fifth Third from the Debtor pursuant to the terms of the My Ranch Note the sum of \$185,786.66 as and for principal, \$3,767.34 as and for interest, and \$1,134.19 as and for late charges, for a total of \$190,688.19, with interest continuing to accrue thereon at the rate of \$25.80370 per diem.

9. Monthly payments under both of the Notes have not been paid for the Month of May 2009 and each month thereafter.

10. Fifth Third has not received any post-petition payments. In addition, real estate taxes for the year 2007 for the Property, in the amount of \$13,306.38, have been sold, and the first installment of 2008 real estate taxes, in the amount of \$6,653.09 are unpaid.

11. By reason of the foregoing, Fifth Third lacks adequate protection.

12. Fifth Third requests a waiver of the ten (10) stay period imposed by Bankruptcy Rule 4001(a)(3) for the reasons stated above.

WHEREFORE, Fifth Third Bank requests this Court to annul the automatic stay pursuant to 11 U.S.C. subsection 362(d)(1) of the United States Bankruptcy Code to allow Fifth Third Bank to exercise its rights and remedies with regard to the Property and allow for the sale of the Property, which is the subject of the litigation.

Diver, Grach, Quade & Masini, LLP
Attorneys for Fifth Third Bank

By /s/ David L. Hazan
One of Its Attorneys

David L. Hazan
Diver, Grach, Quade & Masini, LLP
Attorney for Fifth Third Bank
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